

BS00155

U.S. Application No. 09/751,702 Examiner BROWN, Art Unit 2611
Submission of RCE in Response to November 2, 2006 Final Office Action

REMARKS

In response to the final Office Action dated November 2, 2006, the Assignee respectfully requests continued examination and reconsideration based on the above claim amendments and on the following remarks. The Assignee respectfully submits that the pending claims distinguish over the cited references.

The United States Patent and Trademark Office (the "Office") rejected claims 1-5 and 11-15 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,947,966 to *Oko et al.* Claims 2 and 12 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Oko* in view of U.S. Patent 6,122,660 to *Baransky et al.*

The Assignee shows, however, that the pending claims are neither anticipated nor obviated by the cited documents. The Assignee thus respectfully submits that the pending claims distinguish over the cited documents.

Rejection of Claims under § 102 (e)

Claims 1-5 and 11-15 were rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent 6,947,966 to *Oko et al.* A claim is anticipated only if each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir. 1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P.").

Claims 1-5 and 11-15 cannot be anticipated by *Oko*. These claims recite, or incorporate, many features that are not taught or suggested by *Oko*. Independent claims 1 and 11, for example, recite receiving "*programming content comprising a program and program control data, the program control data having a data format in which a default entry is subsequently followed by a series of data records, with one or more of the data records associated with a*

BS00155

U.S. Application No. 09/751,702 Examiner BROWN, Art Unit 2611
Submission of RCE in Response to November 2, 2006 Final Office Action

particular portion of the program, the one or more of the data records having a linear representation comprising an offset time stamp, a rating value, a content attribute value, a component value, and an action." Independent claims 1 and 11 also recite receiving "information related to program presentation preferences of a viewer," modifying "the program based on the program control data," and outputting "the modified program for presentation on a display device." Support for such features may be found at least at page 2, line 29 through page 3, line 11 of the as-filed application. Support for such features may also be found at least at page 11, lines 9-21 of the as-filed application. Independent claim 1 is reproduced below, and independent claim 11 recites similar features.

1. A system for controlling and managing presentation to viewers of programming content, the system comprising:

a processor communicating with memory and with a user interface, the processor adapted to receive the programming content comprising a program and program control data, the program control data having a data format in which a default entry is subsequently followed by a series of data records, with one or more of the data records associated with a particular portion of the program, the one or more data records having a linear representation comprising an offset time stamp, a rating value, a content attribute value, a component value, and an action;

the viewer interface adapted to receive information related to program presentation preferences of a viewer;

the processor adapted (1) to modify the program based on the program control data and (2) to output the modified program for presentation on a display device;

the processor receiving a vote via the user interface that suggests an alternative plot for the program; and

the processor receiving alternative programming based on tabulated votes.

Oko cannot anticipate such features. Examiner Brown is correct — Oko discloses polling users for the outcome of programs. Yet Oko is entirely silent to many of the features recited in, or incorporated by, claims 1-5 and 11-15. No where, for example, does Oko disclose receiving "programming content comprising a program and program control data, the program control data having a data format in which a default entry is subsequently followed by a series of data

BS00155

U.S. Application No. 09/751,702 Examiner BROWN, Art Unit 2611
Submission of RCE in Response to November 2, 2006 Final Office Action

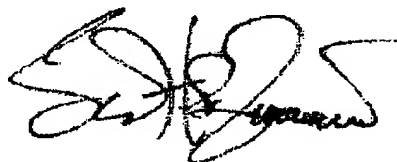
records, with one or more of the data records associated with a particular portion of the program, each data record having a linear representation comprising an offset time stamp, a rating value, a content attribute value, a component value, and an action." The patent to *Oko et al.* also fails to disclose receiving "information related to program presentation preferences of a viewer," modifying "the program based on the program control data," and outputting "the modified program for presentation on a display device." Because *Oko* is silent to at least these features, *Oko* cannot anticipate these claims. Examiner Brown is thus requested to remove the § 102 (e) rejection of claims 1-5 and 11-15.

Rejection of Claims under § 103 (a)

Claims 2 and 12 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over *Oko* in view of U.S. Patent 6,122,660 to *Baransky et al.* These claims, however, depend from their respective base claims and, thus, incorporate the same distinguishing features. Because the combined teaching of the *Oko* and *Baransky* is silent to many of the features incorporated into claims 2 and 12, one of ordinary skill in the art would not think that claims 2 and 12 are obvious. Examiner Brown is thus requested to remove the § 103 (a) rejection of claims 2 and 12.

If any issues remain outstanding, the Office is requested to contact the undersigned at (919) 469-2629 or scott@wzpatents.com.

Respectfully submitted,



Scott P. Zimmerman
Attorney for the Assignee, Reg. No. 41,390